



2008 Navy Professional Development Conference

Contractor Safety Policy

Joy Erdman, MS, CIH, CSP
OPNAV Safety Liaison Office
(703) 602-2575

Joy.Erdman@Navy.mil



Contractor Safety – Why is it an Issue?



- Navy uses many different contractors
- Contractors may be performing work alongside Navy personnel
- Contractor safety can influence the safety of all installation personnel
- Contractors must implement an occupational injury prevention program

Contractor Safety – Why is it an Issue?



Conclusion:

- Coordination of safety efforts is key to protecting all workers at Navy workplaces
- This course provides a forum to improve Navy policy related to contractor safety

DoD Contractor Safety Policy DoDI
6055.1 (Aug. 1998)

DoD Safety and Occupational Health Program

- “DoD **contractors** operating from DoD or privately owned facilities, located on or off DoD installations, are "employers" and are subject to enforcement authority by Federal and State safety and health officials.”

SECNAV 5100.10J, 26 Oct 05

Navy Policy for Safety, Mishap Prevention, Occupational Health and Fire Protection Programs

- Application and Scope
 - Applies to government owned contractor operated facilities only if they involve the OSH of DoD personnel and only if DoD exercises statutory authority per DoDI 6055.1
 - In all other matters, the contractor is responsible directly to OSHA

OPNAVINST 5100.23G

Navy Safety and Occupational Health Program Manual Definitions

- **Contractor Employee** - An employee of a contractor performing work at a contractor workplace under a Navy contract.
- **Contractor Workplace** - Any place on a Navy installation, located within the United States, its territories, or possessions, where work currently is being, recently has been, or is scheduled to be performed by contractor employees under a Navy contract, including a reasonable access route to and from the workplace. The term contractor workplace does not include any area structure, machine, apparatus, device, equipment, or material therein, with which a contractor employee is not required or reasonably expected to have contact nor does it include any working condition for which OSHA jurisdiction has been preempted under section 4(b)(1) of the OSH Act.
- **Navy Contractor** - A non-Federal employer engaged in performance of a Navy contract, whether as prime

Navy Contractor Safety Responsibilities

OPNAVINST 5100.23G, Chapter 1, section 0105

- **Contractors** must comply with applicable federal, state and local codes and standards, including safety and occupational health requirements, as well as any additional specific requirements invoked by contract. The **contractor** is responsible directly for compliance with OSHA standards or those of the approved OSH state plan.

Exceptions:

- (1) Situations in which the United States, by admiralty law or other law, is responsible for **contractor** employee injury compensation (e.g., for employees working under the Commander, Military Sealift Command)
- (2) Situations where the Navy exercises statutory authority for safety and health and, as a result, the OSH Act does not directly apply.

Application of Hazard Control Principles

OPNAVINST 5100.23G, Chapter 5

- The Federal Acquisition Regulation (FAR) Subpart 42, Appendix A prescribes policies and procedures for contract administration & summarizes some of the key provisions of the Navy acquisition regulations requiring application of safety in **contracting**.
- In addition, certain types of construction and demolition contracts require inclusion of the FAR Accident Prevention Clause that requires compliance with the *US Army Corps of Engineers Safety and Health Requirements Manual*, EM-385-1-1.
- By adding the US Army Corps of Engineers requirement, the Navy is requiring the **contractor** to develop an Activity Hazard Analysis for each phase of implemented work and to provide an Accident Prevention Plan.

Role of Navy Safety & Occupational Health Personnel

OPNAVINST 5100.23G, Chapter 5

- Administrative oversight of **contractors** is the primary responsibility of the Contracting Officer.
- Safety and Occupational Health personnel do not assume a regulatory role relative to oversight of **contractor safety** activities and performance except in an imminent danger situation.
- The role of the safety and occupational health offices:
 - Serve as an advisor and provide professional safety and occupational health support to the Contracting Officer
 - Assist in identifying specific safety and health requirements to be included in **contracts**
 - Participate in pre-performance or pre-construction conferences
 - Participate in review of safety and health issues/concerns with the Contracting Officer regarding all **contractors** working on the facility
 - Review and provide comments to the Contracting Officer on issues concerning occupational safety and health.

Hazardous Material Control and Management

OPNAVINST 5100.23G, Chapter 7

- Provide a mechanism for informing:
 - **Informing contractors** of Navy-owned hazardous materials to which their personnel may be exposed
 - Informing Navy personnel of **contractor**-owned HM to which they may be potentially exposed
 - Providing Navy personnel with MSDS's for **contractor**-owned HM

Federal and State Occupational Safety and Health Inspections at Contractor Workplaces on Navy Shore Installations

OPNAVINST 5100.23G, Chapter 11



- DOD **contractors** located on or off Navy shore installations are subject to enforcement authority by Federal and certain State safety and health officials. These inspections may be routine or based on reports of unsafe or unhealthful conditions, specific complaints, accidents or illnesses of **contractor** employees.

Respiratory Protection

OPNAVINST 5100.23G, Chapter 15

- Provisions of this chapter do not apply to **contractors**. They are responsible for providing their own respiratory protection programs and respiratory protective equipment.

Asbestos

OPNAVINST 5100.23G, Chapter 17

- Work Performed by Private Contractors
 - For shore activities, each contract for work to be performed by a private **contractor** in Navy facilities and ships in the United States and abroad shall comply with OSHA and EPA asbestos regulations.

Lead

OPNAVINST 5100.23G, Chapter 21

- Work Performed by Private Contractors:
 - Each contract, for work performed by an independent contractor in the United States or overseas which may involve the release of lead dust, shall incorporate the appropriate references and clauses to ensure that:
 - ☐ The contractor is aware of the potential hazard to his/her employees, complies with the OSHA lead standards and Navy OSH Program Manual for Forces Afloat.
 - ☐ The contractor shall control lead dust outside of the work boundary to less than 30 $\mu\text{g}/\text{m}^3$ at all times, and shall perform sufficient monitoring to confirm that this level of control is maintained.
 - ☐ The controlled work area(s) shall meet these criteria prior to release for unrestricted access.

Energy Control Lockout/Tagout

OPNAVINST 5100.23G Chapter 24

- Requirements for Contractors
 - Regions/Activities shall ensure contracts require the contractor or agency to:
 - Submit a copy of instructions explaining the contractor's or agency's lockout/tagout program.
 - Activity shall provide the contractor or agency with a copy of the lockout/tagout program instruction of the region or activity where the work is to be performed.
 - Contractors must comply with the requirements of *U.S. Army Corps of Engineers Safety and Health Requirements Manual*

CBRNE Safety

OPNAVINST 5100.23G, Chapter 26

- Reiterates 29 CFR 1910 and 1926 that contractor is responsibility directly to OSHA
- Reiterates contractor responsibility for providing their own respiratory protection programs and respiratory protective equipment to their employees.

Confined Space Entry

OPNAVINST 5100.23G, Chapter 27

- Contractor Management Provisions
 - Coordinated so that neither the contractor nor the installation's employees jeopardize each other's safety.
 - "The written program shall describe the process for managing work contractors perform in the installation's confined space."
 - Contractor personnel must not enter a confined space under the installation's permit or certification.

Multi Employer Work Sites

OSHA Multi-Employer Policy: Agency will cite employers in any of four categories:

1. Controlling Employer
2. Creating Employer
3. Exposing Employer
4. Correcting Employer (Source: (Adele Abrams, ASSE))

Multi Employer Work Sites

OPNAVINST 5100.23G, Chapter 5, section 0503(3)

- In instances where multiple employers are sharing a workspace, OSHA multi-employer worksite policy may apply. **With the continued increase of functions performed by contractors at Navy shore facilities and onboard vessels, the potential implications are significant.** Navy activities must have a clear understanding of who has responsibility, **by contract**, agreement or practice for the safety and health of all **contractor** employees. This determination should only be made in consultation with the Contracting Officer and appropriate legal counsel.

Contractor Safety and Integration into Navy Base Operations

- NAVFAC Safety information on website, including **contractor** safety guidelines, provided at <http://www.navfac.navy.mil/safety>.
- NAVFAC Safety Instruction NAVFACINST 5100.11J requires that contract selection criteria consider safety records (including insurance risk ratings/workers' compensation modifier factors) and evaluation of **contractor** safety performance during contract work as key elements of cost and schedule risk management.

OPNAV Safety Liaison Office – Arlington, VA

Navy Contractor Safety

- QUESTIONS?

